

Retaining the Target Population in the Juvenile Justice System

Prior to 1998, it was the burden of the prosecution to establish a youth was unfit for treatment in the juvenile court. However, Proposition 21, which was enacted by voters in 1998, enacted several presumptions regarding the transfer of youth from the juvenile justice system into the adult criminal justice system; these presumptions are as follows:

- The presumption that a minor with a history of felony offenses or who commits specified serious or violent felonies is unfit for treatment in juvenile court.
- A juvenile 16 years of age or older with two prior felonies committed when 14 years of age or older is presumed unfit for juvenile court.
- A juvenile aged 14 years or older who commits a serious or violent felony is presumed unfit for treatment in juvenile court

Proposition 57, the Public Safety and Rehabilitation Act of 2016, was designed, in part, to stop the revolving door of crime by emphasizing rehabilitation, especially for youth. This proposition in essence returned the law back to what it was prior to the adoption of Proposition 21 and substantially amended the process in which youth may be transferred to the adult criminal court by eliminating the authority for the prosecution to directly file petitions to the adult court and requiring a hearing in the juvenile court to determine if a transfer in a particular case is appropriate.

Transfer Data

Year	Transfer Cases	Pending	Stayed in Juvenile Court	Transferred to Adult Court	Motion to Withdraw
2016	2 youth		2 youth		
2017	4 youth		2 youth	1 youth	1 youth
2018	6 youth		1 youth	4 youth	1 youth
2019	2 youth	1 youth			1 youth
2020	0 youth				

Under SB 823, there is a presumption that youth should remain in the juvenile justice system and the changes brought to the Juvenile Justice System as a result of SB 823 further addresses the need to have a plan in place to support youth who can be safely maintained in the Juvenile Justice System, and housed in the JRF, to remain under the jurisdiction of the Juvenile Court. It is the intent of the legislation for counties to reduce the number of youth transferred into the adult criminal justice system and to ensure dispositions are to the least restrictive appropriate environment.

Youth will be evaluated on a case by case basis and, while the presumption will remain that a youth remain in the juvenile justice system, consideration will be given to factors such as public safety, the degree of criminal sophistication, the success of previous attempts to rehabilitate the youth when determining whether the youth should remain in the delinquency system or a motion to transfer the case to the adult system should be considered.

Youth who have a petition filed under the transfer process often spend a significant amount of time housed in the JRF averaging from 1 to 4.5 years, with no specific treatment to address the delinquent behavior that brought them in front of the court. They suffer with the emotional toll of a lengthy process with court dates spread over months, sometimes taking more than a year, before a ruling is made regarding a determination of whether they will remain in the juvenile justice system or be tried as an adult in the criminal court system. All of this lengthy transfer process occurs prior to yet another lengthy court (trial) process to determine guilt or innocence in the determined court system. These processes often add trauma to the youth, youth's family, and the victims who are also waiting a very lengthy period of time to have closure of the case.

With the changes in the law under SB 823, youth who commit serious and/or violent offenses (as defined by the law) and remain in the juvenile justice system will no longer be sent to a state operated facility where the community based justice agencies have no control over treatment or length of stay. They will be housed locally and remain in the JRF with a treatment team and a local support system. These youth will have treatment and services designed to assist with rehabilitation that addresses each youth's specific risk/needs and service planning designed for successful reentry into our community. They will remain connected to the community and pro-social individuals and supported by a local treatment team while serving their sentence in the facility. It is in the best interest of the community to rehabilitate our youth and provide them the access to treatment and services that support cognitive restructuring and skills to re-enter the community and become a productive member of society.